

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 9/10/2013	(3) CONTACT/PHONE Terry Wahler, Senior Planner/805-781-5621	
(4) SUBJECT Submittal of two resolutions approving a Replacement Land Conservation Contract and a Solar-Use Easement Agreement Granting a Solar-Use Easement to the County of San Luis Obispo pursuant to the California Land Conservation Act of 1965 and consideration of the previously-adopted Negative Declaration prepared for the project. District 5			
(5) RECOMMENDED ACTION Adopt and instruct the chairperson to sign both resolutions approving and accepting a Solar-Use Easement Agreement Granting a Solar-Use Easement to the County of San Luis Obispo with consideration of the previously-adopted Negative Declaration and approving a Replacement Land Conservation Contract, and authorize the Director of Planning and Building to enter into a Performance Agreement, in a form approved by County Counsel, with financial assurance for completion of the decommissioning, reclamation, and restoration requirements of Minor Use Permit DRC2011-00062.			
(6) FUNDING SOURCE(S) Application Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____ ) <input type="checkbox"/> Board Business (Time Est. ____ )			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)  N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A    Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW  Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 5			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Terry Wahler, Senior Planner

VIA: Ellen Carroll, Environmental Coordinator

DATE: 9/10/2013

SUBJECT: Submittal of two resolutions approving a Replacement Land Conservation Contract and a Solar-Use Easement Agreement Granting a Solar-Use Easement to the County of San Luis Obispo pursuant to the California Land Conservation Act of 1965 and consideration of the previously-adopted Negative Declaration prepared for the project. District 5

## **RECOMMENDATION**

Adopt and instruct the chairperson to sign both resolutions approving and accepting a Solar-Use Easement Agreement Granting a Solar-Use Easement to the County of San Luis Obispo with consideration of the previously-adopted Negative Declaration and approving a Replacement Land Conservation Contract, and authorize the Director of Planning and Building to enter into a Performance Agreement, in a form approved by County Counsel, with financial assurance for completion of the decommissioning, reclamation, and restoration requirements of Minor Use Permit DRC2011-00062.

## **DISCUSSION**

The following is a brief description of the applicant's and landowners' request.

File Number: AGP2012-00012 - A proposal by Vintner Solar, LLC to rescind an existing Land Conservation Contract on a 97.21 acre parcel and simultaneously enter into a Solar-Use Easement pursuant to Government Code sections 51190 et seq. on an approximately 14.8 acre portion of the property and enter into a Replacement Land Conservation Contract on the remaining approximately 82.41 acre portion of the property to allow a 14.8 acre solar generating facility on the property requested under Minor Use Permit DRC2011-00062. The property is located in the Agriculture land use category at 603 El Pomar Drive, about 1.5 miles northeast of the community of Templeton, in the El Pomar – Estrella planning area. APN: 033-231-026; Supervisorial District No. 5.

In connection with approval of Minor Use Permit DRC2011-00062 and granting a Solar-Use Easement to the County of San Luis Obispo, the applicant and the landowners are required to enter into a Performance Agreement with financial assurances for decommissioning, reclamation, and restoration of the property once the Solar-Use Easement is terminated so that the land is restored to its general condition as it existed at the time of project approval by the time the easement terminates. Staff recommends that the Board of Supervisors authorize the Director of Planning and Building to enter into a Performance Agreement with financial assurances, in a form approved by County Counsel, with the applicant and the landowners to guarantee completion of the decommissioning, reclamation, and restoration requirements required by the conditions of approval of the Minor Use Permit, by the Solar-Use Easement Agreement, and the Solar-Use Easement Chapter (commencing with Government Code sections 51190 et seq.).

## **OTHER AGENCY INVOLVEMENT/IMPACT**

El Pomar Agricultural Preserve No. 18 was approved for property associated with this request by your Board at a public hearing on February 18, 1975, and reviewed by both the Agricultural Preserve Review Committee and the Planning Commission earlier that year and recommended for approval. A Land Conservation Contract for the 97.21 acre property was then entered into between the landowners and the County in Board of Supervisor's Resolution No. 75-332 and recorded as Document No. 14174 on May 8, 1975.

The Agricultural Preserve Review Committee includes representatives from the Agricultural Liaison Committee, the Assessor's Office, the Agriculture Department, the Department of Planning and Building and the Farm Advisor's Office.

On August 12, 2013, the Agricultural Preserve Review Committee reviewed the applicant's request that the landowner and the County rescind the original Land Conservation Contract and in its place grant a Solar-Use Easement to the County and enter into a Replacement Land Conservation Contract covering the remaining portion of the property and recommended approval to your Board.

County Counsel reviewed and approved the resolutions and the Solar-Use Easement Agreement Granting a Solar-Use Easement to the County of San Luis Obispo and the Replacement Land Conservation Contract as to form and legal effect.

## **FINANCIAL CONSIDERATIONS**

Approval of land conservation contracts usually results in a significant reduction in county tax revenues received from the affected properties. Revenue losses have been in past years only partly compensated by state subventions but no subventions have been received since 2008/2009. However, the overall tax impacts should be considered on a program-wide basis rather than on an individual application basis.

The Assessor's Office has provided preliminary estimates of the change in assessment value for the property being considered today. The 97.21 acre property is currently under a Land Conservation Contract and all but the 14.8 acre Solar-Use Easement will remain under a Replacement Land Conservation Contract covering 82.41 acres with no change in assessment value on that portion of the property. Pursuant to Government Code section 51255.1, the County Assessor has concluded and certified to the Board of Supervisors that the rescission valuation of the 14.8 acre Solar-Use Easement (i.e., the current fair market value of the Solar-Use Easement as though it were free of the contractual restrictions) is three hundred thousand dollars (\$300,000) for the purpose of calculating the rescission fee required to rescind the contract on the 14.8 acre Solar-Use Easement. As a result, the Board of Supervisors has determined and certified to the County Auditor that the amount of the rescission fee that the landowner shall pay to the County Treasurer upon rescission is eighteen thousand seven hundred fifty dollars (\$18,750).

## **RESULTS**

The approval and recording of the Solar-Use Easement Agreement and the Replacement Land Conservation Contract will allow a small portion of the subject property to be used for the creation of renewable energy and will keep the remaining portion of the subject property in agricultural and compatible uses for a term of 10 years, which by the provisions in the contract renews annually to maintain the 10 year term.

## **ATTACHMENTS**

**Attachment A** - Vintner BOS Staff Report

**Attachment B** - Vintner Minor Use Permit Staff Report & Negative Declaration

**Attachment C** - Resolution for adoption – AGP2012-00012 - The Finley Trusts

**Attachment C-1** - Replacement Land Conservation Contract with “Exhibit A” Agricultural Preserve and Vicinity Map – The Finley Trusts

**Attachment D** - Resolution for adoption – AGP2012-00012 - The Finley Trusts

**Attachment D-1** - Solar-Use Easement Agreement Granting a Solar-Use Easement to the County of San Luis Obispo with “Exhibit A” Agricultural Preserve and Vicinity Map – The Finley Trusts

**Attachment E** – Assessor Letter